

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GILEAD SCIENCES, INC., <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	Case No. 21-cv-4106 (AMD) (RER)
	:	
v.	:	
	:	
SAFE CHAIN SOLUTIONS, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**PRELIMINARY INJUNCTION AS TO
DEFENDANTS RXWHOLESALE.COM LLC, GUSTAVO FERNANDEZ,
OMOM PHARMACEUTICALS, INC., QUAN HERNANDEZ, MAKE IT HAPPEN
MARKETING INC., MFK MANAGEMENT LLC, GENTEK LLC, TITAN
DISTRIBUTION & SERVICES LLC, TIDY GARAGES LLC, ASB WHOLESALE
DISTRIBUTORS LLC, SILVERLINE PHARMA LOGISTICS, PHARMA PAC
WHOLESALE CORP., CESAR CASTILLO WHOLESALERS LLC, AND
DNS DISTRIBUTOR LLC.**

WHEREAS, upon review of the Second Amended Complaint of Gilead Sciences, Inc., Gilead Sciences Ireland UC, and Gilead Sciences, LLC (together, “Gilead” or “Plaintiffs”), the accompanying declarations and the exhibits annexed hereto, and the memorandum of law in support submitted, this Court, for good cause shown, entered, on October 16, 2021, *inter alia*, an *ex parte* seizure order against Defendant Gustavo Fernandez and a temporary restraining order and order to show cause against Defendants RXWholesale.com LLC, Gustavo Fernandez, Omom Pharmaceuticals, Inc., Quan Hernandez, Make It Happen Marketing Inc., MFK Management LLC, Gentek LLC, Titan Distribution & Services LLC, Tidy Garages LLC, ASB Wholesale Distributors LLC, Silverline Pharma Logistics, Pharma Pac Wholesale Corp., Cesar Castillo Wholesalers LLC, and DNS Distributor LLC. (together, the “Defaulting Defendants”); and

WHEREAS, Gilead executed the *ex parte* seizure order on October 18, 2021 against Mr. Fernandez; and

WHEREAS, Gilead has served each of the Defaulting Defendants and filed affidavits of service with the Court; and

WHEREAS the Defaulting Defendants have not appeared in this action or submitted answering papers to the order to show cause;

NOW, THEREFORE, IT IS ORDERED that:

Pending the final hearing and determination of this action, Defendants RXWholesale.com LLC, Gustavo Fernandez, Omom Pharmaceuticals, Inc., Quan Hernandez, Make It Happen Marketing Inc., MFK Management LLC, Gentek LLC, Titan Distribution & Services LLC, Tidy Garages LLC, ASB Wholesale Distributors LLC, Silverline Pharma Logistics, Pharma Pac Wholesale Corp., Cesar Castillo Wholesalers LLC, and DNS Distributor LLC, and their principals, agents, officers, directors, members, servants, employees, successors, assigns and all other persons in concert and participation with them are preliminarily enjoined from:

1. Purchasing, selling, distributing, marketing, manufacturing, or otherwise using any of the Gilead Marks (as defined below)¹ on any counterfeit or authentic product, or any marks confusingly similar thereto in connection with any products.

¹ The Gilead Marks are defined as follows:

Trademark	Registration Number	Registration Date
GILEAD	3251595	June 12, 2007
	2656314	December 3, 2002
GSI	3890252	December 14, 2010
BIKTARVY	5344455	November 28, 2017
DESCOVY	4876632	December 29, 2015
DESCOVY FOR PREP	5912591	November 19, 2019
9883	5467392	May 15, 2018
	5636131	December 25, 2018
	5906177	November 12, 2019
	5030567	August 30, 2016

2. Using any logo, trade name or trademark confusingly similar to any of the Gilead Marks which may be calculated to falsely represent or which has the effect of falsely representing that the services or products of any or all of the defendants or of others are sponsored by, authorized by or in any way associated with Plaintiffs;

3. Infringing any of the Gilead Marks;

5. Falsely representing any or all of Defaulting Defendants as being connected with Plaintiffs or sponsored by or associated with Plaintiffs or engaging in any act which is likely to cause the trade, retailers and/or members of the purchasing public to believe that any or all of Defaulting Defendants are associated with Plaintiffs;

6. Using any reproduction, counterfeit, copy, or colorable imitation of any of the Gilead Marks in connection with the publicity, promotion, sale, or advertising of any Gilead product, including without limitation BIKTARVY® and DESCovy®;

7. Affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation including words or other symbols tending to falsely describe or represent such goods as being Gilead products, including without limitation BIKTARVY® and DESCovy®, and from offering such goods in commerce;

	5154303	March 7, 2017
TRUVADA	2915213	December 28, 2004
GENVOYA	4797730	August 25, 2015
ATRIPLA	3276743	August 7, 2007
RANEXA	3094007	May 16, 2006
VOSEVI	5259592	August 8, 2017
STRIBILD	4263613	December 25, 2012
	6031751	April 14, 2020
SOVALDI	4468665	January 21, 2014
	5018106	August 9, 2016
7977	4585257	August 12, 2014

8. Diluting any of the Gilead Marks;

9. Removing from their premises, or discarding, destroying, transferring or disposing in any manner any information, computer files, electronic files, WhatsApp or text messages, business records (including but not limited to e-mail communications) or other documents relating to the Defaulting Defendants' assets and operations or relating in any way to the purchase, sale, manufacture, offer for sale, distribution, negotiation, importation, advertisement, promotion, or receipt of any products purporting to be Gilead products, including without limitation any products bearing any of the Gilead Marks, including without limitation BIKTARVY® and DESCovy®; and

10. Assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (1) through (9) above; and it is further

ORDERED that, as to Defendant Fernandez, Plaintiffs and their surety U.S. Specialty Insurance Company are released from any and all liability under Bond Number 1001160238 and any liability under or as a result of the seizure order signed by the Court in this case on October 16, 2021, or the execution thereof, and the seizure is hereby confirmed; and it is further

ORDERED that to the extent they have not done so, the Defaulting Defendants shall produce and deliver all documents and materials they are required to produce under the Seizure Order and the Temporary Restraining Order by the deadlines set forth in each respective order, including any products bearing any of the Gilead Marks that are or come into the possession of the Defaulting Defendants.

s/Ann M. Donnelly

Hon. Ann M. Donnelly

Issued: November 10, 2021